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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2011-1779**

11 **ERIC MICHAEL ELLIS**
12 **1128 Oak Grove Drive**
13 **Los Angeles, CA 90041**
Registered Nurse License No. 755881

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about July 23, 2009, the Board of Registered Nursing issued Registered Nurse
22 License Number 755881 to Eric Michael Ellis (Respondent). The Registered Nurse License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 December 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license. Under section 2811(b), the
8 Board may renew a license at any time within eight years after the expiration.

9 STATUTORY PROVISIONS

10 6. Section 2761 of the Code states:

11 "The board may take disciplinary action against a certified or licensed nurse or deny an
12 application for a certificate or license for any of the following:

13 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

14 "....

15 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
16 functions, and duties of a registered nurse, in which event the record of the conviction shall be
17 conclusive evidence thereof.

18 "....

19 7. Section 2762 of the Code states:

20 "In addition to other acts constituting unprofessional conduct within the meaning of this
21 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
22 chapter to do any of the following:

23 "....

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof."

6 COST RECOVERY

7 8. Section 125.3 of the Code provides, in pertinent part, that the
8 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
9 have committed a violation or violations of the licensing act to pay a sum not to exceed the
10 reasonable costs of the investigation and enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Conviction of Crime)

13 9. Respondent is subject to disciplinary action under Code sections 490 and 2761,
14 subdivision (f), in that on or about October 12, 2010, Respondent was convicted of one
15 misdemeanor count of violating Vehicle Code section 23152(B) (Driving Under the Influence of
16 Alcohol with Blood Alcohol of 0.08% or Above) in the Superior Court of California (County of
17 Los Angeles), in a case entitled *People of the State of California v. Eric Michael Ellis* (Case No.
18 TSB1002277.) The facts and circumstances underlying the conviction are that on or around
19 February 27, 2010, Big Bear police officers observed Respondent's vehicle rear end another
20 vehicle and subsequently leave the scene of the collision. Officers followed Respondent and
21 pulled him over approximately a half mile from the accident scene after which it was determined
22 that he was operating the vehicle with a blood alcohol level of .187%.

23 SECOND CAUSE FOR DISCIPLINE

24 (Use of Alcohol in a Manner Dangerous or Injurious to Self of Others)

25 10. Respondent is subject to disciplinary action under Code sections 2761, subdivision
26 (a), and 2762, subdivision (b), in that Respondent used alcohol to an extent or in a manner
27 dangerous or injurious to himself or others, as is more fully set forth in paragraph 9 above, which
28 is incorporated herein by reference.

1 THIRD CAUSE FOR DISCIPLINE

2 (Conviction of Alcohol Related Crime)

3 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
4 and 2762, subdivision (c), in that Respondent was convicted of a criminal offense involving the
5 consumption of alcohol, as is more fully set forth in paragraph 9 above, which is incorporated
6 herein by reference.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 755881, issued to Eric
11 Michael Ellis;

12 2. Ordering Eric Michael Ellis to pay the Board of Registered Nursing the reasonable
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions
14 Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: _____

3/16/11

17 *Louise R. Bailey*
LOUISE R. BAILEY, M.Ed., RN
18 Executive Officer
Board of Registered Nursing
19 Department of Consumer Affairs
State of California
Complainant

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